

## **922 KAR 1:050. State funded adoption assistance.**

RELATES TO: KRS 199.555, 205.639(2), (3), 216B.450(5), 600.020(20), (48), 620.020(5), Chapter 625,

STATUTORY AUTHORITY: KRS 194A.050(1), 199.555 (10)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.555(10) requires the cabinet to establish and promulgate by administrative regulation criteria to be followed for the adoption of special needs children. This administrative regulation establishes guidelines for the implementation of the state-funded adoption assistance program for children who may otherwise grow up in foster care.

Section 1. Definitions. (1) "Adoption subsidy" means a payment for a special needs child placed for adoption when an adoption assistance agreement is complete.

(2) "Extraordinary medical expenses" is defined by KRS 199.555(4).

(3) "Nonrecurring adoption expenses" is defined by KRS 199.555(3).

(4) "Secretary" means the Secretary of the Cabinet for Health and Family Services or designee.

(5) "State-funded adoption assistance" is defined by KRS 199.555(2).

Section 2. Adoption Assistance Eligibility Criteria. (1) The secretary shall decide whether to pay and provide adoption assistance in accordance with KRS 199.555(5) if:

(a) The child is a special needs child as described in subsection 2 of this section;

(b) The child is committed to the cabinet; and

(c) The prospective adoptive parent will only be able to care for the child with an adoption subsidy.

(2) A special needs child is a child for whom adoptive placement without financial assistance is unlikely in accordance with KRS 199.555(1), because the child:

(a) Has a physical or mental disability;

(b) Has an emotional or behavioral disorder;

(c) Has a recognized risk of physical, mental, or emotional disorder;

(d) Is a member of a sibling group in which the siblings are placed together;

(e) Has had previous adoption disruption or multiple placements;

(f) Is a member of a racial or ethnic minority and two (2) years old or older; or

(g)1. Is age seven (7) or older and has a significant emotional attachment or psychological tie to his foster family; and

2. The cabinet has determined that it would be in the child's best interest to remain with the family.

(3) A special needs child shall:

(a) Be committed to the Cabinet for Health and Family Services;

(b) Not have a parent with custody or a legal claim to the child;

(c) Be under age eighteen (18); and

(d) Not be eligible for federal Title IV-E adoption assistance in accordance with 922 KAR 1:060, with the exception of extraordinary medical expenses pursuant to Section 8(1) of this administrative regulation.

Section 3. Parental Standards. A parent receiving a child eligible for adoption assistance payments shall meet the same standards as those applied to other adoptive applicants in accordance

with:

- (1) 922 KAR 1:350; or
- (2) 922 KAR 1:310.

Section 4. Adoption Placement Agreement. (1) Prior to placing a child for adoption, the prospective adoptive parent and the cabinet shall review and sign the adoption placement agreement to set forth the terms of a child's placement with the prospective adoptive parent.

(2) The adoption placement agreement shall advise the prospective adoptive parent of the:

- (a) Special needs of the child;
- (b) Cabinet's expectations; and
- (c) Services offered by the cabinet to assist the prospective adoptive parent in the adoption process.

Section 5. Adoption Assistance Agreement. Prior to finalization of the adoption, the prospective adoptive parent and the cabinet shall negotiate and sign an adoption assistance agreement in accordance with KRS 199.555(6) that shall:

- (1) Determine the nature and amount of the adoption subsidy; and
- (2) Remain in effect until suspended or terminated in accordance with Section 6 of this administrative regulation.

Section 6. Adoption Assistance Suspension and Termination. (1) The cabinet shall temporarily suspend state-funded adoption assistance payments during the period of time the adopted child:

- (a)1. Resides in:
  - a. Foster care as defined by KRS 620.020(5);
  - b. A residential treatment facility as defined by KRS 600.020(48);
  - c. A psychiatric residential treatment facility as defined by KRS 216B.450(5);
  - d. A psychiatric hospital as defined by KRS 205.639(2) or (3) beyond thirty (30) consecutive calendar days; or
- e. Detention:
  - (i) As defined by KRS 600.020(20);
  - (ii) Outside the adoptive home; and
  - (iii) For a period of thirty (30) calendar days or more; or
- 2. Is absent from the home of the adoptive parents for a period of thirty (30) consecutive calendar days or more, unless the child is absent due to medical care or school attendance; and
- (b) Receives care and support for the child's special needs from a local, state, or federal public agency.

(2) State-funded adoption assistance payments shall be terminated in accordance with KRS 199.555(8) if the:

- (a) Adoptive parent:
  - 1. Is no longer legally responsible for the special needs child in accordance with KRS Chapter 625;
  - 2. Becomes deceased; or
  - 3. Requests discontinuation of the adoption assistance payments; or
- (b) Special needs child:
  - 1. Becomes deceased;
  - 2. Marries;
  - 3. Gains full-time employment;
  - 4. Is considered an emancipated minor;
  - 5. Is inducted into military service;

6. Reaches age eighteen (18); or
7. If the child is enrolled in high school, reaches:
  - a. Age nineteen (19); or
  - b. The month of the child's high school graduation, if the child's graduation precedes the child's 19th birthday.

Section 7. Adoption Assistance Payments. (1) State-funded adoption assistance payments may include:

- (a) Extraordinary medical expenses related to the child's special needs that:
    1. Existed prior to the adoption; and
    2. Are not reimbursable by another source;
  - (b) Nonrecurring adoption expenses not to exceed \$1,000 incurred in the adoption of a child who is considered a special needs child; and
  - (c) An adoption subsidy.
- (2) An adoption assistance payment shall begin on the date that the adoption placement agreement and adoption assistance agreement are signed by the adoptive parent and the cabinet.
- (3) The amount of the state-funded adoption assistance payment shall not exceed the amount paid for foster care maintenance for the same child, in accordance with KRS 199.555(7), including medically fragile, specialized medically fragile, and care plus resource home per diem reimbursements established by the Department of Community Based Services.
- (4) A child placed in therapeutic foster care, as described in 922 KAR 1:310, shall not be eligible to receive adoption assistance payments in excess of a care plus resource home per diem reimbursement established by the Department for Community Based Services.

Section 8. Annual Family Contact. (1) Annual contact with the adoptive family shall be made by mail or home visit to determine that the:

- (a) Child remains in the adoptive home;
  - (b) Parent continues to provide care and support for the child; and
  - (c) Adoption assistance payments continue to meet the special needs of the child.
- (2) The cabinet may conduct a home visit after an adoption assistance annual contact is made by mail:
- (a) If:
    1. The adoptive parent requests a home visit;
    2. The special needs of the child change, as indicated by the adoptive parent;
    3. Attempts to update information by additional mail or phone contact have failed; or
    4. The cabinet receives information that is contrary to the information verified by the adoptive parent during the annual contact; or
  - (b) In accordance with 922 KAR 1:330.

Section 9. Adoption Assistance Renegotiation. (1) Renegotiation of an adoption assistance agreement:

- (a) May be requested by the cabinet or the adoptive parent before or after the adoption is finalized; and
  - (b) Is contingent on compliance with Sections 2(2), 6, 8, and 11 of this administrative regulation.
- (2) If conditions in KRS 199.555(6) are met, the cabinet shall reimburse extraordinary medical expenses requested by an adoptive parent of a special needs child to prevent disruption of the adoption:
- (a) After the adoption is final; and

(b) Through state funded adoption assistance.

(3) A move of the special needs child or the adoptive parent of the special needs child out of the state or country shall have no effect on the child's eligibility for state funded adoption assistance payments.

(4) If an adoption assistance payment is changed through renegotiation the cabinet and adoptive parent shall sign a new adoption assistance agreement.

Section 10. Service Appeal. An applicant for adoption assistance payments or an adoptive family aggrieved by a cabinet action shall be granted an administrative hearing in accordance with 922 KAR 1:320.

Section 11. Notice of Change. (1) Cabinet staff shall provide notice of a reduction, discontinuance, or termination of adoption assistance payments:

(a) Ten (10) calendar days in advance; and

(b) In accordance with 922 KAR 1:320, Section 6.

(2) An adoptive parent shall notify the cabinet of any changes in circumstances that would make the adoptive parent ineligible for adoption assistance payments or change the amount of the adoption assistance payment as described in KRS 199.555(9) and Section 6 of this administrative regulation.

Section 12. State-funded Adoption Assistance Limitation. The number of state-funded adoption assistance cases and the amount of state-funded adoption assistance payments paid per case shall be limited by available funds for the state-funded adoption assistance program.

Section 13. Training. Contingent upon the availability of funding, the Department for Community Based Services shall offer training to adoptive parents receiving state-funded adoption assistance consistent with training offered to resource home parents as specified in 922 KAR 1:350. (DCW-9; 1 Ky.R. 295; eff. 1-8-75; Am. 17 Ky.R. 138; eff. 9-13-1990; 20 Ky.R. 2405; eff. 3-23-1994; 25 Ky.R. 1477; 1893; eff. 2-17-1999; Recodified from 905 KAR 1:050, 6-3-1999; 27 Ky.R. 1110; 1499; eff. 12-21-2000; 30 Ky.R. 1659; 2066; 2466; eff. 6-16-04; TAm eff. 10-27-2004; TAm eff. 1-27-2006; 34 Ky.R. 477; 1063; 1497; eff. 12-17-2007; 35 Ky.R. 1357; eff. 2-6-2009.)